

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)	
)	
Distribution of 2014-2017)	Docket No. 16-CRB-0009-CD
Cable Royalty Funds)	(2014-2017)
_____)	

**Multigroup Claimants' Renewed Motion for
Partial Distribution of 2015-2017 Cable Royalties**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba
Multigroup Claimants ("MGC") hereby renews its prior motion for the Copyright
Royalty Judges to order a partial distribution to MGC of the 2015-2017 cable royalty
funds (the "Cable Funds").

On June 6, 2017, the Judges granted the "Allocation Parties" motion for
distribution of 60% of the 2015 Cable Funds. *Order Granting Motion for Partial
Distribution* (June 6, 2017), Docket no. 16-CRB-0020-CD (2015).

On July 30, 2018, the Judges granted the "Allocation Parties" motion for
distribution of 50% of the 2016 Cable Funds. *Order Granting Motion for Partial
Distribution* (July 30, 2018), Docket no. 17-CRB-0017-CD (2016).

On May 22, 2019, the Judges granted the "Allocation Phase Parties" motion for
distribution of 40% of the 2017 Cable Funds. *Order Granting Motion for Partial
Distribution* (July 30, 2018), Docket no. 16-CRB-0009-CD (2014-2017).

On July 23, 2021, MGC moved for partial distribution of 2015-2017 cable funds,
seeking 50% of the average percentage amounts previously awarded to MGC in the

2010-2013 cable proceedings. To date, the Judges have issued no ruling in response thereto.

The circumstances warrant a partial distribution of the Cable Funds to MGC, in an amount commensurate with 50% of the average percentage amounts previously awarded to MGC in the 2010-2013 cable proceedings, as soon as feasible.

I. THE JUDGES HAVE AUTHORITY TO ORDER PRECONTROVERSY PARTIAL DISTRIBUTIONS.

Section 111 of the Copyright Act favors the early distribution of cable royalties. See 17 U.S.C. § 111(d)(4)(C). Chapter 8 of the Copyright Act vests the Judges with ample statutory authority to order the precontroversy distribution of cable royalties. In the Copyright Royalty Judges Program Technical Corrections Act, Congress amended Section 801(b)(3)(C) to clarify that a partial distribution of royalties can be made at any time after the filing of claims. See Pub. L. No. 109-303 §§ 3, 5, 109th Cong., 2d Sess. (2006), 120 Stat. 1478. Congress affirmed the Judges' authority to order partial distributions of statutory royalties in advance of the declaration of a controversy. Section 801(b)(3)(C) provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants—

- (i) agree to the partial distribution;
- (ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final

determination on the distribution of the fees made under subparagraph (B);

- (iii) file the agreement with the Copyright Royalty Judges; and
- (iv) agree that such funds are available for distribution.

17 U.S.C. § 111(d)(4)(C).

II. DISTRIBUTION OF THE 2015-2017 CABLE FUNDS TO MULTIGROUP CLAIMANTS COMMENSURATE WITH 50% OF PERCENTAGE AMOUNTS PREVIOUSLY AWARDED IS REASONABLE AND APPROPRIATE.

The statutorily prescribed deadline for filing claims has now passed. MGC is an established claimant that agrees to sign the separate agreement contemplated by Section 801(b)(3)(C)(ii) obligating it to return any excess royalty amounts received, in a form to be provided by the Office or the Copyright Royalty Judges, in advance of the requested distribution, and agrees to file such an agreement with the Copyright Royalty Judges or as otherwise directed. All other participants to the 2015-2017 proceedings have received partial distributions of 60%, 50%, and 40% of those royalty pools, respectively.

A. Multigroup Claimants' computation of its proportionate royalties based on its award of 2010-2013 cable royalties in the devotional programming category.

On February 12, 2019, the Judges issued their determination for distribution of the devotional programming category, awarding the following percentages of the Basic Fund, 3.75% Fund, and Syndex Fund, for the 2010-2013 cable royalty pools:

	<u>Basic Fund</u>	<u>3.75% Fund</u>	<u>Syndex Fund</u>
2010:	4.0%	4.7%	0%
2011:	5.5%	6.8%	0%
2012:	5.5%	6.7%	0%
2013:	4.3%	5.3%	0%

On multiple occasions over an extended period of time, Multigroup Claimants has requested that the Licensing Division provide Multigroup Claimants the amounts allocable to the Basic Fund, 3.75% Fund, and Syndex Fund, for 2010-2013. Multigroup Claimants sought such information in order to obtain a “blended” award rate for the devotional programming category for 2010-2013. Notwithstanding multiple requests, no information was provided.

In order to estimate the relative amounts allocable to the Basic Fund, 3.75% Fund, and Syndex Fund, Multigroup Claimants drew information from the 2004-2009 cable royalty funds. From 2004 to 2009, the Basic Fund averaged 88.46% of the aggregate royalties collected; the 3.75% Fund averaged 11.52% of the aggregate royalties collected, and; the Syndex Fund averaged 0.02% of the aggregate royalties collected.

Applying the relative percentages of Basic Fund, 3.75% Fund, and Syndex Fund from 2004-2009, to the devotional programming award for 2010-2013, the ***blended*** percentage of royalties attributable solely to the devotional programming category for all 2010-2013 cable funds was as follows:

2010:	4.08%
2011:	5.65%
2012:	5.64%
<u>2013:</u>	<u>4.41%</u>
Avg.:	4.95%

On May 26, 2021, the Judges granted MGC’s motion for final distribution of 2010-2013 Cable Royalty Funds. MGC’s average award of the devotional cable royalties for 2010-2013 equals 16.6%. See *Order Granting Multigroup Claimants’ Motion for Final Distribution of 2010-2013 Cable Royalty Funds* (May 26, 2021), Docket no. 14-CRB-0010-CD/SD (2010-2013). Consequently, MGC’s blended percentage of the

aggregate cable funds attributable to 2010-2013 attributable to MGC's devotional programming claims resulted in an average blended rate of **0.8217%**.

According to the Licensing Division of the Copyright Office, as of June 30, 2021, the amount of 2015-2017 Cable Funds collected equal the following amounts:

2015 funds:	\$216,375,278
2016 funds:	\$205,083,721
2017 funds:	\$204,238,036

Applying MGC's previous average percentage award of the aggregate royalties to the aggregate royalties collected for 2015-2017 equals the following figures, to which MGC moves for a partial distribution of 50% thereof:

	<u>Avg. 2010-2013 blended Rate % against Cable Funds</u>	<u>50% of figure</u>
2015 funds:	\$1,786,172	\$893,086
2016 funds:	\$1,685,172	\$842,586
2017 funds:	\$1,678,223	\$839,111

III. THE JUDGES HAVE CONSISTENTLY FAILED TO RULE ON MOTIONS FOR ADVANCE DISTRIBUTION FILED BY MGC AND ITS RELATED ENTITIES.

Attached hereto as Exhibit A is a spreadsheet that compares the Judges responses to motions for advance distribution filed by MGC and its related entities, compared to those of other parties that have sought partial distribution, demonstrating that on literally every front – e.g., the time by which the CRB issues a *Federal Register* notice, the time by which the CRB rules -- MGC's motions for partial distribution have been addressed by the Judges on a basis dramatically less timely than other parties' motions for partial distribution. The running tally for the Judges to issue an order for publication of the motion for partial distribution in the Federal Register is an average of eleven months and

climbing, compared to the 1.75 months for all other parties. The running tally for the Judges to issue an order for partial distribution is an average of 22 months and climbing, compared to 4.8 months for all other parties. This is despite MGC and its related entities being an “established claimant” in each of those circumstances, and despite there already being a finite, identified list of “interested parties” whom had already received actual notice of the motions for partial distribution, thereby obviating the need for a *Federal Register* notice (according to CRB precedent). On only a handful of occasions in recent history have other parties found a need to renew their motion for partial distribution – after the Judges failed to make a ruling within a few months – while MGC and its related entities have found the need to repeatedly renew its motions, stretching over years.

CONCLUSION

For the reasons set forth above, Multigroup Claimants respectfully requests that the Judges, immediately issue an order for partial distribution to Multigroup Claimants of royalties equal to 50% of the average royalty percentages previously awarded to Multigroup Claimants, as applied against the 2015-2017 Cable Funds, according to the

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calculations set forth above. No requirement exists that Multigroup Claimants' motion be published for comment in the Federal Register pursuant to 17 U.S.C. § 801(b)(3)(C),

Respectfully submitted,

Dated: January 28, 2022

_____/s/_____
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CERTIFICATE OF SERVICE

I certify that on January 28, 2022, I caused a copy of the foregoing pleading to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

_____/s/_____
Brian D. Boydston, Esq.

EXHIBIT A

Comparison of CRB response times for motions for partial distribution

Docket #	Docket	Motion for Distribution - Date	Renewed Motion for Distribution - Date	Federal Register Notice - Date	Federal Register Notice - Months after Motion for Distribution	Renewed Motion for Distribution - Date	Second Renewed Motion for Distribution - Date	Order Granting Partial Distribution - Date	Order Granting Distribution - Months after close of Federal Register Notice	Aggregate months in hands of CRB	NOTES
Phase I claimants motion for partial distribution											
14-CRB- 0007 CD (2010-2012)	2012 Cable	07/25/14	09/12/14	10/01/14	2.25			12/23/14	1.75	4.00	
14-CRB-0008 SD (2010-2012)	2012 Satellite	07/25/14	09/12/14	10/01/14	2.25	02/26/15		03/03/15	4.00	6.25	Delay in order due to oversight.
14-CRB-0010 CD (2013)	2013 Cable	01/21/15		03/04/15	1.50			05/28/15	1.75	3.25	
14-CRB-0011 SD (2013)	2013 Satellite	01/21/15		02/11/15	1.00			05/28/15	2.50	3.50	
16-CRB-0009-CD (2014)	2014 Cable	02/05/16		02/29/16	0.75			08/15/16	4.50	5.25	
16-CRB-0010-SD (2014)	2014 Satellite	03/11/16		04/29/16	1.50			08/24/16	2.75	4.25	
16-CRB-0020 (2015)	2015 Cable	02/17/17		04/25/17	2.00			06/06/17	0.50	3.50	
17-CRB-0011-SD (2015)	2015 Satellite	02/17/17		04/17/17	2.00						
				09/29/17	7.00			11/07/18	0.50	17.00	
17-CRB-0017-CD (2016)	2016 Cable	05/18/18		06/04/18	0.50			unknown	unknown	unknown	
16-CRB-0010-SD (2014-17)	2016 Satellite	06/28/19		07/16/19	0.50			08/23/19	0.25	1.75	
16-CRB- 0009-CD (2014-17)	2017 Cable	03/15/19		04/10/19	1.00			05/22/19	0.25	2.25	
16-CRB-0010-SD (2014-17)	2017 Satellite	06/28/19		07/16/19	0.50			08/23/19	0.25	1.75	
				Average	1.75				Average	4.80	
IPG/MGC motions for partial distribution											
2012-6 CRB CD (2004-2009), 2012-7 CRB SD (1999-2009)	2004-2009 Cable, 1999-2009 Satellite	09/18/15		12/16/15	3.00	06/06/15	08/25/16	11/09/16	10.00	14.00	
2008-2 CRB CD 2000-2003 (Phase 2)	2000-2003 Cable (Devotional)	04/19/17		04/01/19	24.00	10/24/19		n/a	n/a	46.00+	Order not yet issued.
16-CRB- 0009-CD (2014-17)	2014-2017 Cable	07/23/21	01/28/22		6.00+					6.00+	Order not yet issued
				Average	11.00+				Average	22.00+	

Proof of Delivery

I hereby certify that on Friday, January 28, 2022, I provided a true and correct copy of the Multigroup Claimants' Renewed Motion for Partial Distribution of 2015-2017 Cable Royalties to the following:

Joint Sports Claimants, represented by Michael E Kientzle, served via ESERVICE at michael.kientzle@arnoldporter.com

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via ESERVICE at ted@copyrightroyalties.com

ASCAP, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Canadian Claimants, represented by Lawrence K Satterfield, served via ESERVICE at lksatterfield@satterfield-pllc.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Public Television Claimants, represented by Ronald G. Dove Jr., served via ESERVICE at rdove@cov.com

Broadcast Music, Inc. (BMI), represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@dbr.com

Devotional Claimants, represented by Matthew J MacLean, served via ESERVICE at matthew.maclean@pillsburylaw.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

National Public Radio, represented by Gregory A Lewis, served via ESERVICE at glewis@npr.org

Commercial Television Claimants / National Association of Broadcasters, represented by David J Ervin, served via ESERVICE at dervin@crowell.com

Program Suppliers, represented by Lucy H Plovnick, served via ESERVICE at
lhp@msk.com

Signed: /s/ Brian D Boydston